



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

CITIZENS PLAZA BUILDING
400 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1403

TELEPHONE: 615-313-4700 FAX: 615-741-4165
TTY: 1-800-270-1349
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BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

October 27, 2017

Sylvia Richey, Chairman of the Board
YWCA of Greater Memphis, Inc.
766 South Highland Street
Memphis, Tennessee 38111-4249

Dear Ms. Richey,

The Department of Human Services (DHS) Audit Services staff conducted an on-site unannounced review of the Child and Adult Care Food Program (CACFP) at YWCA of Greater Memphis, Inc., Application Agreement number 00580, on July 12, 2017. We reviewed the Sponsor's records of reimbursements and expenditures for April 2017. The purpose of this review was to determine if the sponsoring organization complied with Title 7 of the Code of Federal Regulations (CFR) applicable parts, application agreement, and applicable Federal and State regulations.

Background

CACFP sponsors utilize meal count sheets to record the number of meals served for breakfast, lunch, supper and supplement meals served. Meals served by participating sponsors must meet the minimum guidelines set by the United States Department of Agriculture (USDA) and DHS to be eligible for reimbursement. The CACFP sponsor reports the number of meals served through the DHS Tennessee Information Payment System (TIPS) to seek reimbursement.

We inspected meal count sheets for the sample sites for our test period and reconciled the meals claimed to the meals reported as served for each meal service. We also assessed compliance with civil rights requirements and observed select meal services at the sample feeding sites.

Two types of programs were evaluated during the test month of April 2017 - At-Risk program and the Emergency Shelter program. Our sample included one at-risk site and the emergency shelter site.

Our review of the two programs operated by the Sponsor for the review period disclosed the following:

Emergency Shelter Program

The Sponsor had one emergency shelter, The YWCA Memphis Family Shelter, in operation during the test month of April 2017.

Our review of the Sponsor's records for April 2017 disclosed the following:

1. The Sponsor reported incorrect meal counts

Condition

The claim for reimbursement for the emergency shelter listed 239 breakfast meals, 239 supper meals and 239 pm supplements served. However, based on our review of the Sponsor's meal counts, we found that there were 122 breakfast meals, 122 supper meals and 122 pm supplements served.

Based on the results of our review, 117 breakfast meals, 117 supper meals and 117 supplements were disallowed.

Criteria

Title 7 CFR, Section 226.10 (c) states in part, "... In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim...."

Recommendation

The Sponsor should ensure that meals served are correctly recorded each day and that a correct total is reported on the claim for reimbursement each month.

2. Menus did not contain all required components

Condition

Our review of the menu disclosed the following meals had missing or deficient components:

Date	Deficient or Missing Component	Disallowed Meals (# and type)
04/03/17	Missing component: Second fruit or vegetable Menu lists- Milk, baked chicken, rice, green peas, bread	6 Suppers
04/08/17	Missing component: Second fruit or vegetable Menu lists- Milk, ham, dressing, scallop potatoes, rolls	3 Suppers
04/10/17	Insufficient component: Meat/meat alternate Menu lists- Milk, beef pasta, green beans, carrots, pasta, rolls. The label provided by the Sponsor for the beef pasta was not a child nutrition label and the product formulation statement was not provided. Therefore, we could not determine if the product contained a sufficient amount of protein.	6 Suppers
04/13/17	Missing component: Bread/grain Menu lists- Milk, orange slices, eggs	4 Breakfasts
04/13/17	Missing component: Second fruit or vegetable Menu lists- Milk, mackerels, rice, green beans, bread	4 Suppers

Date	Deficient or Missing Component	Disallowed Meals (# and type)
04/25/17	Missing component: Second fruit or vegetable Menu lists: Milk, baked chicken, macaroni, green beans, bread	6 Suppers
04/28/17	Insufficient component: Meat/meat alternate Menu lists: milk, neck bones, pinto beans, broccoli and cornbread. According to the Crediting Handbook for the Child and Adult Care Food Program, neck bones are not creditable toward the meat/meat alternate component.	2 Suppers
04/29/17	Missing component: Second fruit or vegetable Menu lists: Milk, ground beef, salad, taco shells	2 Suppers

Criteria

Title 7 of the Code of the Federal Regulations, Section 226.17(b)(4) states, "Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in §226.20 ..."

In addition, the Tennessee Child and Adult Care Food Program Policies and Procedures Manual (p. 23) states that "An institution must maintain menus that meet the following requirements: a. All food components, as required for each type of meal to be served (i.e., breakfast, lunch, supper and supplement), are identified."

The USDA Crediting Foods in the Child and Adult Care Food Program, Revised 2011, (page 26) concerning neck bones states; "These products contain high small amounts of meat and are high in fat."

Recommendation

The Sponsor should ensure that the menus contain all required meal components.

This is a repeat finding from the monitoring report dated July 28, 2014.

3. An inventory of food and non-food items was not maintained

The sponsor did not maintain an inventory of food and non-food items purchased with CACFP funds. This is necessary in order to complete a year-end reconciliation.

Criteria

FNS Instruction 796-2, Rev. 4 (Exhibit G, Suggested format for Inventory Reconciliation and Exhibit H, Suggested format for Inventory Record) states "Monthly inventory records must be maintained. Other State agencies may, however, require an inventory to be taken once a year so centers can make adjustments in the cost of food on an annual basis."

Recommendation

The Sponsor should complete an inventory of food and non-food items purchased with CACFP funds not used at the end of each program year and keep on file.

Disallowed Meal Costs for the Emergency Shelter

Based on the review, we determined that the sponsor's noncompliance with the applicable Federal and State regulations that govern the CACFP resulted in a total disallowed cost of \$802.47.

At-Risk Program

There were three At-Risk sites in operation during the test month of April 2017. The YWCA of Greater Memphis at Shady Grove was selected as the sample site.

4. Menus did not contain all required components

Condition

Our review of the menu disclosed the following meals had missing or deficient components:

Date	Deficient or Missing Component	Disallowed Meals (# and type)
04/07/17	Deficient component: Second component Menu lists- Capri sun and chili cheese chips A CN label or product formulation statement was requested but was not received for the chili cheese chips. Therefore it could not determine if the chili cheese chips were whole grain/enriched or regular potato chips.	21 Supplements
04/21/17	Deficient component: Second component Menu lists- Popcorn and Capri Sun According to the Crediting Handbook for the Child and Adult Care Food Program, popcorn is not a creditable food item.	18 Supplements
04/24/17	Deficient component: Second component Menu lists- Capri Sun and Lays potato chips According to the Crediting Handbook for the Child and Adult Care Food Program, Potato Chips are not a creditable food item.	20 Supplements

Criteria

Title 7 of the Code of the Federal Regulations, Section 226.17 (b)(4) states. "Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in §226.20 ..."

In addition, the Tennessee Child and Adult Care Food Program Policies and Procedures Manual (p. 23) states that "An institution must maintain menus that meet the following requirements: a. All food components, as required for each type of meal to be served (i.e., breakfast, lunch, supper and supplement), are identified."

The USDA Crediting Foods in the Child and Adult Care Food Program, Revised 2011, (page 38) states "Potato chips are a snack food and are not creditable."

The USDA Crediting Foods in the Child and Adult Care Food Program, Revised 2011, (page 54) states "Popcorn is a snack food and is not creditable. It provides fiber but little nutritional value."

Recommendation

The Sponsor should ensure that the menus contain all required meal components.

5. The Sponsor did not provide documentation to show that the required annual CACFP training to staff was provided

Condition

The Sponsor did not provide documentation of the annual CACFP training for staff. This training is required and must emphasize food service procedures and record keeping requirements.

Criteria

Title 7 of the Code of the Federal Regulations 226.15 (e) states, "Recordkeeping. Each institution shall establish procedures to collect and maintain all program records required under this part, as well as any records required by the State agency. Failure to maintain such records shall be grounds for the denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records. At a minimum, the following records shall be collected and maintained: ... (14) For sponsoring organizations, records documenting the attendance at annual training of each staff member with monitoring responsibilities. Training must include instruction, appropriate to the level of staff experience and duties, on the Program's meal patterns, meal counts, claims submission and claim review procedures, recordkeeping requirements, and an explanation of the Program's reimbursement system."

Recommendation

The Sponsor should ensure that the required annual training to staff is provided and records of the training are maintained.

6. The documentation provided for the monitoring visits were not sufficient

The Sponsor made three monitoring visits within the program year. However, according to the provided documentation, none of the monitoring visits were unannounced visits. It is required that at least two of the three monitoring visits are unannounced.

Criteria

Title 7 of the Code of the Federal Regulations, Section 226.16(d)(4) states, " ... (iii) Frequency and type of required facility reviews. Sponsoring organizations must review each facility three times each year, except as described in paragraph (d)(4)(iv) of this section. In addition: ... (A) At least two of the three reviews must be unannounced;"

Recommendation

The Sponsor should ensure that at least two visits per year are unannounced and that the monitoring guides are completed accurately.

Disallowed Meals Cost for At-Risk

Based on our review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern the CACFP resulted in a total disallowed cost of \$50.74.

Total Disallowed Meal Costs

Based on our review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern the CACFP resulted in a total disallowed cost of \$853.21.

Corrective Action

YWCA of Greater Memphis, Inc. must complete the following actions within 30 days from the date of this report:

- Login to the Tennessee Information Payment System (TIPS) and revise the claim submitted for the emergency shelter and each site for April 2017, which contains the reconciled claim data from the enclosed exhibits.
- Remit a check payable to the **Tennessee Department of Human Services** in the amount of \$853.21 for recovery of the amounts disallowed in this report. **Please return the attached billing notice with your check**
- Prepare and submit a corrective action plan to address the deficiencies identified in this report. The corrective action plan template is attached. Please return the corrective action plan to:

AuditServices.CAPS.DHS@tn.gov

If you have questions relative to the corrective action plan please contact:

Allette Vayda, Director
Child and Adult Care Food Program
8th Floor Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243
Allette.Vayda@tn.gov
(615) 313--3769

Please note that the amount of disallowed cost is subject to an interest charge. The interest charge will be waived if your revised claim within 30 days from the date of this report. If the revised claim is not completed by the 30 day deadline, an interest charge may be billed to your institution. Please mail your check and the billing notice to:

Child and Adult Care Food Program
Fiscal Services
11th Floor, Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243

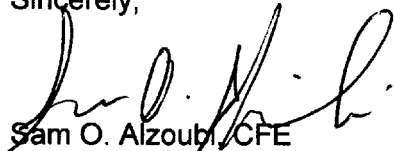
In accordance with the federal regulation found at 7 CFR Part 226.6 (k), your institution may appeal the amount of disallowed cost identified in this monitoring report. The procedures for submitting an appeal are enclosed. The appeal must be submitted to:

Tennessee Department of Human Services
Appeals and Hearings Division, Clerk's Office
P.O. Box 198996
Nashville, TN 37219

If the Institution decides to appeal the amount of disallowed meals cost, all appeal procedures must be followed as failure to do so may result in the denial of your request for an appeal.

We appreciate the assistance provided during this review. If you have any questions regarding this report, please contact Jackie Yokley, Audit Director 2, at 615-837-5035 or Jackie.D.Yokley@tn.gov.

Sincerely,



Sam O. Alzoubi, CFE
Director of Audit Services

Exhibits

cc: Jacquelyn Williams, Executive Director, YWCA of Greater Memphis, Inc.
Marquiepta Odom, Associate Executive Director of Programs, YWCA of Greater Memphis, Inc.
Carolyn Vester, Assistant Program Director, YWCA of Greater Memphis, Inc.
Allette Vayda, Director, Child and Adult Care Food Programs
Debra Pasta, Program Manager, Child and Adult Care Food Program
Elke Moore, Child and Adult Care Food Programs
Constance Moore, Program Specialist, Child and Adult Care Food Program
Marty Widner, Program Specialist, Child and Adult Care Food Program
Comptroller of the Treasury, State of Tennessee

Exhibit A**Verification of CACFP Emergency Shelter Claim****Sponsor: YMCA of Greater Memphis, Inc.****Emergency Shelter: YWCA of Greater Memphis Family Shelter****Review Month/Year: April 2017****Total Meal Reimbursement Received: \$1,424.44**

Site Meal Service Activity and Monitor Reconciliation	Reported on Claim	Reconciled Meals to Meal Counts Sheets
Total Number of Days Food Served	30	27
Total Number of Attendance	239	239
Number of Breakfasts Served	239	118
Number of Suppers Served	239	93
Number of PM Supplements Served	239	122
Total Amount of Eligible Food Costs	XXXXXXXX	\$1,082.61
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$1,082.61

Exhibit B

Verification of Sponsored At-Risk Data

Sponsor: YMCA of Greater Memphis, Inc.

Review Month/Year: April 2017

Total Reimbursement Received for At-Risk: \$2,656.82

Total Reimbursement Received for Sampled Site: \$1,424.44

Sampled Site: YMCA of Greater Memphis at Shady Grove

Site Meal Service Activity and Monitor Reconciliation	Reported on Claim	Reconciled Meals to Meal Counts Sheets
Total Number of Days Food Served	19	19
Total Number of Attendance	387	387
Number of PM Snacks Served	387	328
Total Amount of Eligible Food Cost	XXXXXXXX	\$2,915.47
Total Amount of Eligible Non-food	XXXXXXXX	\$0

EXHIBIT C

Disallowed Costs	
Sponsored Emergency Shelter disallowed costs	\$802.47
Sponsored At-Risk disallowed costs	\$50.74
Total Disallowed Costs	\$853.21



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COMMISSIONER

October 27, 2017

Sylvia Richey, Chairman of the Board
YWCA of Greater Memphis, Inc.
766 South Highland Street
Memphis, Tennessee 38111-4249

**Notice of payment due to findings disclosed in the monitoring report dated October 27, 2017 for
Child and Adult Care Food Program (CACFP).**

Institution Name:	YWCA of Greater Memphis, Inc.
Institution Address:	766 South Highland Street, Memphis, Tennessee 38111-4249
Agreement Numbers:	00-580
Amount Due:	\$853.21
Due Date:	November 27, 2017

Based on the monitoring report issued on October 27, 2017 by the Audit Services Division within the Tennessee Department of Human Services, the Community and Social Services - Food Programs- CACFP & SFSP management has agreed with the findings which require YWCA of Greater Memphis, Inc. to reimburse the Department of Human Services unallowed cost in the amount of \$853.21.

Please remit a check or money order payable to the **Tennessee Department of Human Services** in the amount of \$853.21 by the due date to:

**Tennessee Department of Human Services
Fiscal Services 11th Floor
Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243-1403**

Please note that the unallowed cost/overpayment of the CACFP is subject to an interest charge. The interest charge will be waived if the payment is received by the due date. If payment is not received by the end of 5th day of the due date, an interest charge may be added to the original amount due and will be billed to your entity.

If you have any questions regarding this notice, please feel free to contact Allette Vayda, Director, Community and Social Services - Food Programs - CACFP & SFSP at (615) 313-3769 or Allette.Vayda@tn.gov

Thank you for your attention

**Corrective Action Plan for Monitoring Findings**

Instructions: Please print in ink or type the information to complete this document. Enter the date of birth for each Responsible Principal and/or Individual in Section B. Attach the additional documentation requested. Enter your name, title and date of signature on the last page. Please sign your name in ink.
Please return ALL pages of the completed Corrective Action Plan form.

Section A. Institution Information

Name of Sponsor/Agency/Site: YMCA of Greater Memphis, Inc	Agreement No. 00580	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 766 South Highland St. Memphis, TN 38111

Section B. Responsible Principal(s) and/or Individual(s)

Name and Title: Sylvia Richey, Chairman of the Board	Date of Birth: / /
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: 10/27/17	Corrective Action Plan: 10/27/17
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Section D. Findings

Findings:

1. The Sponsor reported incorrect meal counts
2. Menus did not contain all required components
3. An inventory of food and non-food items was not maintained
4. Menus did not contain all required components
5. The Sponsor did not provide documentation to show that the required annual CACFP training to staff was provided
6. The documentation provided for the monitoring visits were not sufficient

The following measures will be completed within **30 calendar days** of my institution's receipt of this corrective action plan:

Measure No. 1: The Sponsor reported incorrect meal counts

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No.2: Menus did not contain all required components

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 3: An inventory of food and non-food items was not maintained

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 4: Menus did not contain all required components

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 5: The Sponsor did not provide documentation to show that the required annual CACFP training to staff was provided

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No.6: The documentation provided for the monitoring visits were not sufficient

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

I certify by my signature below that I am authorized by the institution to sign this document. As an authorized representative of the institution, I fully understand the corrective measures identified above and agree to fully implement these measures within the required time frame. I also understand that failure to fully and permanently correct the findings in my institution's CACFP or SFSP will result in its termination from the program, and the placement of the institution and its responsible principals on the National Disqualified List maintained by the U.S. Department of Agriculture.

Printed Name of Authorized Institution Official:

Position:

Signature of Authorized Institution Official: _____

Date: / /

Signature of Authorized TDHS Official: _____

Date: / /

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

- (xi) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity;

(c) Administrative review is also available if the State agency notifies the institution and responsible principal or responsible individual of the following actions: proposed disqualification of a responsible principal or responsible individual, denial of a budget, denial of a line item within a budget, downward adjustment of the amount approved in a budget, suspension of an institution's participation, denial of start-up or expansion funds, denial of a request for advanced payment, recovery of an advance in excess of a claim, denial of a claim for reimbursement (except for late submission), decision not to forward an exception request for payment of a late claim, overpayment demand, denial of a new or renewing institution's application for participation, denial of sponsored facility application, notice of proposed termination, claim denial, claim deadline exceptions and requests for upward adjustments to a claim, or any other action affecting an institutions participation or claim for payment.

3. All appeal requests must be presented in writing to the TDHS Division of Appeals and Hearings not later than 15 calendar days after the date the institution or sponsoring agency receives the notice of adverse administrative action.

4. The date of an institution's or sponsoring agency's receipt of a notice of suspension and/or proposed termination and disqualification will be governed by the federal regulation at 7 CFR Part 226.2. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution or day care home when it is delivered, sent by facsimile, or sent by email. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.

5. The TDHS Division of Appeals and Hearings will acknowledge the receipt of the appeal request within 10 calendar days of the receipt of the institution's or sponsoring agency's request for review. The written request for review should state if a fair hearing is requested or if a review of written information in lieu of a fair hearing is requested. If the appeal request from the institution or sponsoring agency does not specifically request a hearing, a review of written information in lieu of a hearing will occur. If a fair hearing is requested and the institution or sponsoring agency's representative fails to appear, the right to a personal appearance is waived.

6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16th calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.

7. To be considered for a fair hearing or for a review of written information in lieu of a fair

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the notice of adverse administrative action.

8. The action of the TDHS must remain in effect during the administrative review. The effect of this requirement on particular actions by TDHS is as follows:

(i) *Overpayment demand.* During the period of the administrative review, TDHS is prohibited from taking action to collect or offset the overpayment. However TDHS must assess interest beginning with the initial demand for remittance of the overpayment and continuing through the period of administrative review unless the administrative review official overturns the TDHS's action.

(ii) *Recovery of advances.* During the administrative review, TDHS must continue its efforts to recover advances in excess of the claim for reimbursement for the applicable period. The recovery may be through a demand for full repayment or an adjustment of subsequent payments.

(iii) *Program payments.* The availability of Program payments during an administrative review of the denial of a new institution's application, denial of a renewing institution's application, proposed termination of a participating institution's agreement, and suspension of an institution are addressed in paragraphs (c)(1)(iii)(D), (c)(2)(ii)(D), (c)(3)(iii)(D), (c)(5)(i)(D), and (c)(5)(ii)(E), respectively, of 7 CFR §226.6.

9. The institution or sponsoring agency must refute the charges contained in the notice during the fair hearing or in the written information that is provided in lieu of the hearing.

10. The institution and the responsible principals and responsible individuals may retain legal counsel, or may be represented by another person.

11. If a fair hearing is requested, the institution or sponsoring agency will be notified in writing of the time, date and place of the fair hearing at least 10 calendar days in advance.

12. Any information which supports an adverse administrative action taken by the TDHS shall be available to the institution or sponsoring agency for inspection from the date of the receipt of the request for a fair hearing or a review of written information in lieu of the hearing.

13. In accordance with 7 CFR Part 226.6 (k)(8), the TDHS Division of Appeals and Hearings must conduct the administrative review of the proposed disqualification of the responsible principals and responsible individuals as part of the administrative review of the application denial, proposed termination, and/or proposed disqualification of the institution with which the responsible principals or responsible individuals are associated. However, at the administrative review official's discretion, separate administrative reviews may be held if the institution does not request an administrative review or if either the institution or the responsible principal or responsible individual demonstrates that their interests conflict.

14. The procedures contained in the Uniform Administrative Procedures Act found at TCA 4-5-301 et seq. shall be followed in rendering a decision on all appeals. The decision of the hearing officer is the final administrative determination to be afforded to the institution or sponsoring agency, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the request for a fair hearing.

15. The processing limits for administrative appeals MUST be met. In the event a continuance is requested by a party, one continuance may be granted at the Hearing Official's discretion. This

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

continuance shall not be for a period longer than ten (10) calendar days unless there are exceptional circumstances. Exceptional circumstances must be detailed in the order of continuance and the order must contain a date certain for the hearing, to be set as soon as possible. A report of pending CACFP desk review and fair hearing requests will be generated and reviewed daily by the Clerk's Office and the Legal Director for Appeals and Hearings who will monitor the dates for timeliness. In the event a decision has not been rendered within forty-five (45) calendar days of the date of receipt of the request for fair hearing or desk review, the Legal Director for Appeals and Hearings or their back-up shall notify the hearing official to take appropriate action.

16. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

Tennessee Department of Human Services
Division of Appeals and Hearings
PO Box 198996, Clerk's Office
Nashville, TN 37219-8996
Fax: (615) 248-7013 or (866) 355-6136
E-mail: AppealsClerksOffice.DHS@tn.gov

17. If a termination action is upheld by the hearing officer, the TDHS will issue a letter to the institution or sponsoring agency and its responsible principals and individuals advising that the termination and disqualification are effective on the date of the ruling issued by the hearing officer. The agency maintains searchable records of all administrative reviews and their dispositions for a period of five (5) years.

18. As required by 7 CFR Part 226.6 (c)(7), each disqualified institution, sponsoring agency, principal and individual will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, an institution, sponsoring agency, principal and individual shall remain on the list until such time as the USDA, in consultation with the TDHS, determines that the serious deficiencies that led to their placement on the list have been corrected, or until seven years have elapsed since they were disqualified from participation. However, if the institution, sponsoring agency, principal or individual has failed to repay debts owed under the program, they will remain on the list until the debt has been paid.